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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,660	01/29/2004	Luis Parellada Armela	05918-256001 / VGCP No. 7	5385
26161 7590 12/08/2008 FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER WOLLSCHLAGER, JEFFREY MICHAEL	
			ART UNIT 1791	PAPER NUMBER
			NOTIFICATION DATE 12/08/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No. 10/767,660	Applicant(s) ARMELA ET AL.	
	Examiner JEFFREY WOLLSCHLAGER	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-12, 14-22, 24, 25, 28, 81 and 82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-12, 14-22, 24, 25, 28, 81 and 82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/19/08</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 30, 2008 has been entered.

Response to Amendment

Applicant's amendment to the claims filed October 30, 2008 has been entered. Claims 1 and 81 are currently amended. Claims 6, 13, 23, 26, 27 and 29-80 have been canceled. Claims 1-5, 7-12, 14-22, 24, 25, 28, 81 and 82 are pending and under examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4, 7-12, 14-22, 24, 25, 81 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beretta et al. (US 5,891,549) in view of Keith (US 3,963,813) and Levitt et al. (WO 01/24654). *Note: Citations to Levitt et al. are provided from the US equivalent document US 6,592,800.*

Regarding claims 1 and 81, Beretta et al. teach a method of producing a composite product comprising a sheet (col. 3, lines 28-33; col. 4, lines 52-65) or netting of material (1) that contains a plurality of solid, discrete projections/peduncles (2). The sheet of material containing the peduncles is formed by extrusion (col. 3, lines 3-10) and the peduncles can have a variety of shapes (col. 3, lines 18-22). Beretta et al. further teaches bonding a layer of fabric/a preformed substrate to the peduncles by gluing or other methods (col. 3, lines 34-36) to form the composite product. Beretta et al. do not expressly teach locally heating the ends of the projections/peduncles and foreshortening the projections. Additionally, Beretta et al. do not expressly teach fibers from the preformed substrate/fabric are encapsulated with the resin of the distal ends of the projection.

However, Levitt et al. teach a method for making a mechanical fastener comprising providing a projection component comprising discrete projections/stems of resin extending from a surface of a base (Figures 1-4); locally heating the ends of the projections with a heater (50) that does not contact the projections yet causes the projections to soften/foreshorten and compressing/foreshortening the stems with a roller (44), (col. 2, lines 43-col. 3, line 55) to form the projections into a specific desired shape. Additionally, Keith discloses a method of forming a cusped sheet suitable for use as an interlocking fastener device (col. 4, line 10) wherein a fibrous sheet is impregnated with molten plastic from the distal ends of the projections (Figures

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8-11; col. 2, lines 7-15; col. 8, lines 1-10; col. 9, lines 44-55; col. 10, lines 27-40). The ends of the projections are also heated by a non-contact heat source (Figure 8).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the method of Beretta et al. and to have foreshortened and heated the ends of the projections/peduncles, as suggested by Levitt et al., into a desired shape (e.g. Beretta et al.: col. 3, lines 40-62, Figure 6) since Levitt et al. suggest such a method is effective and suitable for modifying the shape of stems projecting from an extruded base layer. Additionally, it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the method of Beretta et al. and to have bonded a preformed substrate to the distal ends of the projections by encapsulating fibers from the sheet with the resin of the distal ends, as suggested by Keith, since Keith teaches that such a method effectively bonds a fibrous sheet to projections (Figure 10; col. 9, lines 44-55).

As to claim 2, the combination suggests bonding the substrate with the resin of the distal ends without an adhesive (Keith: col. 9, lines 44-55).

As to claims 3 and 4, the combination suggests pressing the sheet against the distal ends. The examiner submits one having ordinary skill would have readily determined and optimized the pressing pressure in order to ensure the appropriate spacing between the base and the sheet (5) of Beretta et al. was maintained.

As to claim 7, the combination suggests the distal ends are heated (Levitt et al).

As to claim 8, the combination suggests that the heated/melted distal ends would foreshorten to some extent while the substrate is being applied.

As to claim 9, the combination suggests shortening the projections prior to applying the substrate.

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As to claim 10, the combination suggests some foreshortening would continue after the substrate is initially applied to the distal end (Keith: Figure 8).

As to claims 11 and 12, Beretta et al. teach heads of various shapes may be formed (Figure 6) and Levitt et al. show the heating can form heads that extend radially outward in multiple directions (Figures 2-4).

As to claim 14, Levitt et al. heat the distal ends with a radiant non-contact heater (50) (col. 5, lines 10-67).

As to claims 15 and 82, Beretta et al. teach the layer can be a non-woven fabric or fabric (col. 3, lines 34-36) and Keith additionally suggest a porous or fibrous layer (col. 9, lines 44-55).

As to claims 16 and 17, Levitt et al. teach and suggest the projections may be formed in the conventional manner claimed (col. 8, lines 44-col. 9, lines 17).

As to claims 18 and 19, the combination suggests the preformed substrate is made of a different material with a higher softening point than the projections.

As to claims 20 and 21, Beretta et al. teach the method can be employed to provide a desired amount of space between sheet (5) and the base. One having ordinary skill would have readily determined the precise thickness required of the sheet (5) to achieve a desired result. Further, Keith suggests the sheet may be thin relative to the entire thickness.

As to claim 22, the bonding in the combination occurs in discrete bonding zones that are spaced apart from the base (i.e. at the distal end of the projections).

As to claims 24 and 25, Keith teaches the substrate may include fiberglass (col. 22, lines 48-55). Further, one having ordinary skill would have readily employed a substrate having the desired color (i.e. containing pigment/paint) in order to produce an aesthetically pleasing composite product.

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Claims 5, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beretta et al. (US 5,891,549) in view of Keith (US 3,963,813) and Levitt et al. (WO 01/24654), as applied to claims 1-4, 7-12, 14-22, 24, 25, 81 and 82 above, and further in view of Aamodt et al. (US 6,303,062). *Note: this is an alternative rejection to the rejection of claims 8 and 10 above.*

As to claims 5, 8 and 10, the combination teaches the method as set forth above. Beretta et al. do not teach applying the pressure with a pair of pressure as claimed. However, Aamodt et al. disclose compressing/foreshortening the projections with a pair of pressure rollers while applying the preformed substrate/layer (Figures 1-4). Further, the projections continue to be compressed after the layer is applied and the composite travels between the nips (56) and (58).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the method of Beretta et al. and to have performed the foreshortening and applying steps as taught by Aamodt et al. with a pair of pressure rollers since Aamodt et al. teach that such a method and sequence of steps is known in the art and is known to be suitable for forming a fastener product (MPEP 2144.06-2144.07). Additionally, the examiner notes that the sequence of performing process steps has been held to be *prima facie* obvious absent a showing of new or unexpected results.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beretta et al. (US 5,891,549) in view of Keith (US 3,963,813) and Levitt et al. (WO 01/24654), as applied to claims 1-4, 7-12, 14-22, 24, 25, 81 and 82 above, and further in view of either of Tuman et al. (US 7,014,906) or Heindel et al. (US 5,961,761).

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As to claim 28, the combination teaches the method set forth above. Beretta et al. do not teach the fibrous cover sheet touches the base of the fastener product. However, Tuman et al. suggest a method wherein a fibrous material is employed to form a composite with a hook fastener such that the fibrous material touches the base of the fastener product to facilitate attachment between the fibrous material and the fastener product (Abstract; Figure 6; Figure 11; col. 9, lines 31-45) and Heindel et al. suggest that a fibrous cover material positioned over a hook fastener may be more strongly bonded together by intermittently forcing the fibrous cover sheet to touch the base material (Figure 10B; col. 7, lines 6-9; col. 7, line 46-col. 8, line 39)

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the teaching of Beretta et al. and to have contacted the base of the fastener product with the cover sheet in certain locations as suggested by either of Tuman et al. or Heindel et al. for the purpose of further improving the bond between the fastener product and the cover sheet.

Response to Arguments

Applicant's arguments filed October 30, 2008 have been fully considered. Applicant's arguments regarding the Keith reference, in view of the amendment to the claims, are moot in view of the rejection set forth above. Namely, Keith is employed as a secondary reference for the reasons set forth above. Applicant's arguments filed October 30, 2008 in combination with the arguments filed June 5, 2008 and the amendment to the claims filed October 30, 2008 have overcome the rejection based upon Eckhardt et al. in view of Levitt et al. and Leach et al. However, a new ground of rejection is set forth above.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY WOLLSCHLAGER whose telephone number is (571)272-8937. The examiner can normally be reached on Monday - Thursday 6:45 - 4:15, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff Wollschlager/
Examiner, Art Unit 1791

December 4, 2008